

IC 13-30-10

Chapter 10. Crimes

IC 13-30-10-0.1

Repealed

(As added by P.L.220-2011, SEC.289. Repealed by P.L.63-2012, SEC.17.)

IC 13-30-10-1

Criminal penalties for illegal activities concerning records, recording and monitoring devices, and testing or monitoring data; penalties apply to both electronic submissions and paper documents

Sec. 1. (a) A person who knowingly or intentionally destroys, alters, conceals, or falsely certifies a record that:

(1) is required to be maintained under the terms of a permit issued by the department; and

(2) may be used to determine the status of compliance; commits a Class B misdemeanor.

(b) A person who knowingly or intentionally renders inaccurate or inoperative a recording device or a monitoring device required to be maintained by a permit issued by the department commits a Class B misdemeanor.

(c) A person who knowingly or intentionally falsifies testing or monitoring data required by a permit issued by the department commits a Class B misdemeanor.

(d) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

As added by P.L.137-2007, SEC.31. Amended by P.L.114-2008, SEC.25.

IC 13-30-10-1.5

Criminal violations and penalties

Sec. 1.5. (a) Except as provided in subsection (b), a person regulated under IC 13-22 who knowingly does any of the following commits a Class B misdemeanor:

(1) Transports hazardous waste to an unpermitted facility.

(2) Treats, stores, or disposes of hazardous waste without a permit issued by the department.

(3) Transports, treats, stores, disposes, recycles, or causes to be transported used oil regulated under 329 IAC 13 in violation of the standards established by the department for the management of used oil.

(4) Makes a false material statement or representation in any label, manifest, record, report, or other document filed or maintained under the hazardous waste or used oil standards.

(b) An offense under subsection (a) is a Level 6 felony if the

offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (a) is a Level 5 felony if the offense results in the death of another person.

(c) Before imposing sentence upon conviction of an offense under subsection (a) or (b), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(d) Notwithstanding the maximum fine under IC 35-50-3-3, the court shall order a person convicted under subsection (a) to pay a fine of at least five thousand dollars (\$5,000) per day for each violation and not more than twenty-five thousand dollars (\$25,000) per day for each violation.

(e) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (b) to pay:

(1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars (\$5,000) and not more than one hundred thousand dollars (\$100,000) for each day of violation.

(f) Except as provided in subsection (g), a person regulated under IC 13-17 who does any of the following commits a Class C misdemeanor:

(1) Knowingly violates any applicable requirements of IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8, IC 13-17-9, IC 13-17-10, or IC 13-17-13.

(2) Knowingly violates any air pollution registration, construction, or operating permit condition issued by the department.

(3) Knowingly violates any fee or filing requirement in

IC 13-17.

(4) Knowingly makes any false material statement, representation, or certification in any form, notice, or report required by an air pollution registration, construction, or operating permit issued by the department.

(g) An offense under subsection (f) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (f) is a Level 5 felony if the offense results in the death of another person.

(h) Before imposing sentence upon conviction of an offense under subsection (f) or (g), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(i) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (f) to pay a fine of at least five thousand dollars (\$5,000) per day for each violation and not more than twenty-five thousand dollars (\$25,000) per day for each violation.

(j) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (g) to pay:

(1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars (\$5,000) and not more than one hundred thousand dollars (\$100,000) for each day of violation.

(k) Except as provided in subsection (l), a person regulated under IC 13-18 who does any of the following commits a Class C misdemeanor:

(1) Willfully or recklessly violates any applicable standards or

limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8, IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14, IC 13-18-15, or IC 13-18-16.

(2) Willfully or recklessly violates any National Pollutant Discharge Elimination System permit condition issued by the department under IC 13-18-19.

(3) Willfully or recklessly violates any National Pollutant Discharge Elimination System Permit filing requirement.

(4) Knowingly makes any false material statement, representation, or certification in any National Pollutant Discharge Elimination System Permit form or in any notice or report required by a National Pollutant Discharge Elimination System permit issued by the department.

(l) An offense under subsection (k) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (k) is a Level 5 felony if the offense results in the death of another person.

(m) Before imposing sentence upon conviction of an offense under subsection (k) or (l), the court shall consider any or a combination of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(3) Whether the discharge was the result of a combined sewer overflow and the person regulated had given notice of that fact to the department.

(n) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(1), (k)(2), or (k)(3) to pay a fine of at least five thousand dollars (\$5,000) a day for each violation and not more than twenty-five thousand dollars (\$25,000) a day for each violation.

(o) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(4) to pay a fine of at least five thousand dollars (\$5,000) for each instance of

violation and not more than ten thousand dollars (\$10,000) for each instance of violation.

(p) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (l) to pay:

(1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars (\$5,000) and not more than one hundred thousand dollars (\$100,000) for each day of violation.

(q) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

As added by P.L.114-2008, SEC.26. Amended by P.L.57-2009, SEC.2; P.L.158-2013, SEC.196.

IC 13-30-10-2

Repealed

(As added by P.L.137-2007, SEC.31. Repealed by P.L.114-2008, SEC.33.)

IC 13-30-10-3

Repealed

(As added by P.L.137-2007, SEC.31. Repealed by P.L.114-2008, SEC.33.)

IC 13-30-10-4

Repealed

(As added by P.L.137-2007, SEC.31. Repealed by P.L.114-2008, SEC.33.)

IC 13-30-10-5

Criminal penalties for violating underground storage tank laws

Sec. 5. (a) A person who:

(1) operates an underground storage tank and knowingly, intentionally, or recklessly violates:

(A) the terms of a permit issued by the department that relates to the operation of an underground storage tank; or

(B) an Indiana statute that relates to the operation of an underground storage tank; and

(2) discharges a contaminant into the environment, if the discharge results in:

(A) a substantial risk of serious bodily injury;

(B) serious bodily injury to an individual;

(C) the death of a vertebrate animal; or

(D) damage to the environment that renders the environment

unfit for human or vertebrate animal life, or causes damage to an endangered, an at risk, or a threatened species; commits a Level 6 felony. However, the offense is a Level 5 felony if it results in the death of another person.

(b) It is a defense to a prosecution under this section that the person did not know and could not reasonably have been expected to know that the substance discharged into the environment was capable of causing a result described in subsection (a)(2).

(c) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or IC 35-50-3-2, the court may order a person convicted under this section to pay:

- (1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or
- (2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars (\$100,000) for each day of violation.

In determining the amount of a fine imposed for a violation of this section, the court shall consider any improper economic benefit, including unjust enrichment, received by the defendant as a result of the unlawful conduct.

As added by P.L.137-2007, SEC.31. Amended by P.L.158-2013, SEC.197.

IC 13-30-10-6

Criminal penalties for violating state regulated wetlands laws

Sec. 6. (a) A person who:

- (1) knowingly or intentionally violates:
 - (A) the terms of a permit issued under IC 13-18-22 that relates to state regulated wetlands; or
 - (B) a statute that relates to state regulated wetlands; and
- (2) causes substantial harm to a state regulated wetland;

commits a Level 6 felony.

(b) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or IC 35-50-3-2, the court may order a person convicted under this section to pay:

- (1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or
- (2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars (\$100,000) for each day of violation.

In determining the amount of a fine imposed for a violation of this section, the court shall consider any improper economic benefit, including unjust enrichment, received by the defendant as a result of the unlawful conduct.

*As added by P.L.137-2007, SEC.31. Amended by P.L.158-2013,
SEC.198.*